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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/543,088

05/15/2006

Reinhold Ott

40770-000169/US

5605

30593

7590

12/04/2008

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EXAMINER

BUGG, GEORGE A

ART UNIT

PAPER NUMBER

2612

MAIL DATE

DELIVERY MODE

12/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/543,088	Applicant(s) OTT, REINHOLD	
	Examiner GEORGE A. BUGG	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-68 are currently pending in this application.

Claim Rejections - 35 USC § 112

2. All 112 issues put forth in the Office Action dated 05/19/2008 have been overcome, with the exception of claim 22, which is addressed below.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "outside of the commercial product" found in independent claims 1 and 8, is clearly new matter. The Examiner can find no support in Applicant's Specification for such an amendment. The response filed by Applicant dated 08/19/2008 gives no indication or allegation of support for such an amendment either. In addition, Applicant's Figures 1, 3A-3C, and 5 all show the receiver internally housed. Furthermore, on page 17 of Applicant's Specification, the

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3rd paragraph discusses Figures 1 and 3A, and states that the receiver is housed inside of the mounting component of the security unit, which is part of the entire unit as a whole. Applicant also argues that the cited patents fail to teach this limitation and argues that if the receiver were externally mounted on the personal electronic object of Gehlot that it could be easily removed and thus tracking the object would be impossible. How is the same not true of Applicant's invention? If externally mounted, the receiver in Applicant's theft prevention product could also be removed, thus rendering the device useless.

5. Claims 2-7, and 9-34 are rejected by virtue of their dependencies on claims 1 and 8.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 22 recites the limitation "a transmitter" in line 2 of the claim. While it is clear that a second transmitter is being claimed, it is unclear whether or not the first transmitter is referring to the transmitter whose antecedent basis is established in claim 15. If yes, then claim 22 should recite "the transmitter", if no, then essentially there are three transmitters being claimed, 1 in claim 15, and 2 others in claim 22, and they must

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be differentiated from one another in some clear manner, such as naming them first, second and third. Correction is needed.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7-12, 14-16, 18-19, 21-64 and 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ott (US 5,910,768) in view of Howell (US 5,955,948) and Brinkmeyer et al. (US 2001/0028295).

1) Regarding claim 1:

Ott discloses the claimed method for protecting a commercial product (18) against theft (Abstract), in which a security unit (Fig. 2) has a monitoring mode in which a theft attempt will cause the system to switch to an alarm mode (see operational description regarding monitoring means 34 of Fig. 2), except the claimed: deactivating in the monitoring mode, a receiver housed in the security unit; and activating the receiver when the security unit is shifted to the alarm mode.

However, Howell teaches in the same art of article/product theft detection and alarm system the known use of a remote alarm deactivation receiver (40) to allow an authorized user to remotely deactivate the activated alarm when it is desired to do so

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(Fig. 3 and col. 4, line 45-48 and 65-66; col. 5, lines 20-23) whereby such deactivation and associated deactivation receiver is only required/used for resetting/deactivating the alarm, and thus after transition from the monitoring/sensing mode to the alarm mode, and Brinkmeyer et al. teaches the general concept of activating a wireless receiver only when it is needed to conserve power ([0029].

9. In view of the teachings by Ott, Howell and Brinkmeyer et al., it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to include the remotely activated wireless receiver of Howell in a theft alarm method/device of Ott to conveniently allow an authorized user to remotely deactivate an activated alarm once it has been acknowledged, for example, and further to keep such receive deactivated in the monitoring mode and only activate it during the alarm mode when it may be needed, as suggested by Brinkmeyer et al. to conserve power. **It should further be noted that since Applicant has claimed the receiver being both internally and externally housed, that in view of In re Coole, the claimed limitations lack criticality since the device will function exactly the same regardless of the location of the receiver, and therefore would have been obvious to one of ordinary skill in the art. Furthermore, Ott teaches an audible alarm, which is an acoustic alarm, and is activated when the alarm is triggered by an attempted theft. In other words, theft protection is active when a theft is attempted by way of sounding the alarm. Independent claim 1 is further rejected based on the cited case law. The Examiner is relying on Ex parte Pfeiffer and Kangas 135 USPQ 31 (BPAI 1961), which states that “to be entitled to weight in method claims, recited structural**

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limitations must affect the method in a manipulative sense and not amount to mere claiming of a use of a particular structure.” This is clearly not the case in either of these claims. The location of the receiver is irrelevant to the method of operation of the claimed device.

2) Claim 2 (depends on claim 1): the alarm mode is terminated when the deactivation receiver 40 receives a signal from remotely located deactivation transmitter 60 of Howell.

3) Claim 3 (depends on claim 1): claimed “on-state mode” corresponds to the considered “alarm mode” when alarm 46 of Ott is “on” in which the receiver 40 (of Howell) in the combined system is activated, and the claimed system is shifted from the on-state mode to a “connect mode” when the receiver received a signal from the remotely located transmitter is met by the receiver 40 received the wireless signal from transmitter 60 and electrically sent or “connected” a signal through its output to “R” input of 52 in Fig. 3 of Howell. **Theft protection is only active when the alarm is triggered.**

4) Claim 4 (depends on claim 3): receiver is deactivated when security unit shifts to the connect mode (Brinkmeyer et al. discloses deactivating the receiver when not needed; receiver of Ott and Howell is not needed in the connect mode at which time the receiver has already output a signal to disable the alarm).

5) Claim 5 (depends on claim 3): wherein in the connect mode, the security unit is prepared for a shift to the monitoring mode (when shifted to the connect mode of Ott, Howell and Brinkmeyer et al., the receiver is deactivated when the alarm is

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silenced/reset, which is then ready for further monitoring in the monitoring mode, i.e. prepared for a shift to the monitoring mode).

6) Claim 7 (depends on claim 3) wherein the security unit is placed in the on-state mode when it is switched on (the alarm mode or on-state mode requires the device is be powered/switched on in Ott, Howell and Brinkmeyer et al.; this interpretation is reasonable given the lack of definition/differentiation between the terms “monitoring mode”, “on-state mode”, “alarm mode” and “connect mode”).

7) Claim 8: As considered in claim 1 above, wherein the “security unit” of claim 1 has been broken down into security unit 16 of Ott, and central unit 34 of Ott which has the different modes, connected via connectors 20 in Ott. **It should further be noted that since Applicant has claimed the receiver being both internally and externally housed, that in view of In re Coole, the claimed limitations lack criticality since the device will function exactly the same regardless of the location of the receiver, and therefore would have been obvious to one of ordinary skill in the art. Furthermore, Ott teaches an audible alarm, which is an acoustic alarm, and is activated when the alarm is triggered by an attempted theft. In other words, theft protection is active when a theft is attempted by way of sounding the alarm. Independent claim 8 is further rejected based on the cited case law. The Examiner is relying on Ex parte Pfeiffer and Kangas 135 USPQ 31 (BPAI 1961), which states that “to be entitled to weight in method claims, recited structural limitations must affect the method in a manipulative sense and not amount to mere claiming of a use of a particular structure.” This is clearly not the case in**

either of these claims. The location of the receiver is irrelevant to the method of operation of the claimed device.

8) Claim 9 (depends on claim 8) as considered in claim 2.

9) Claim 10 (depends on claim 8) as considered in claim 3.

10) Claim 11 (depends on claim 10) as considered in claim 4.

11) Claim 12 (depends on claim 10) as considered in claim 5.

12) Claim 14 (depends on claim 8) as considered in claim 7.

13) Claim 15 (depends on claim 8) the transmitted and received signal can be nominally called a selection signal, which selects to terminate/silence the alarm in the prior art combination. In claim 15 consider replacing the word "that" back into the claim to correct the grammar.

14) Claim 16 (depends on claim 15) wherein the selection signal terminates the alarm mode (silence the alarm) by shifting the system to the connect mode as considered in claims 3-5, therefore the selection signal is the same signal.

15) Claim 18 (depends on claim 15): Ott teaches the use of encoded wireless transmission for identification and inherently noise prevention and accidental-activation prevention (signal 110 of Fig. 6). It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to encode the wirelessly transmitted selection signal in the method/system of Ott, Howell and Brinkmeyer et al. so as to prevent noise, interference and undesired activation of the receiver as well as allowing use of multiple units in the system.

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16) Claim 19 (depends on claim 15) As considered in claim 18, wherein it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to store in the receiver in a volatile memory in order to provide decoding and/or authentication/comparison of the encode selection signal for processing in the method/system of Ott, Howell and Brinkmeyer et al.

17) Claim 21 (depends on claim 15) remote operating system is met by remote control 60 of Howell.

18) Claim 22 (depends on claim 15) It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement the wireless remote control system of Ott, Howell and Brinkmeyer et al. using a relay or repeater transmitter for long range applications or application environments in which the signal transmission path requires such relaying or repeating.

19) Claim 23 (depends on claim 8) alarm mode is indicated by acoustic signal from 46 in Fig. 2 of Ott.

20) Claim 24 (depends on claim 23) it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to eventually terminate the acoustic alarm signal from 46 of Ott, for example after prolonged periods determined by a time interval keeper.

21) Claims 25-26 (depends on claim 8): Power/battery status indicators for power/battery operated devices to convey its status to the user are well known in the art of power/battery operated devices. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to include such power source monitoring

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and indicating feature using an acoustic or optical indicator in a method/device of Ott, Howell and Brinkmeyer et al. without unexpected results.

22) Claim 27(depends on claim 8): Fig. 6 of Ott discloses applying multiple devices (security units and central units) to protect multiple products/objects in a system whereby each device has its own identification. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to also allow a single transmitter to be able to operate on the multiple devices in a system such as taught by Ott, Howell and Brinkmeyer et al. using their identifications to reduce the number of required transmitters.

23) Claim 28 (depends on claim 1) bracket component is met by 16 of Ott, and whereby in attaching the bracket component to the product, monitoring of the bracket component for proper attachment to the product is activated is met by col. 11, lines 28-21 and 32-35 of Ott.

24) Claim 29 (depends on claim 28) a mounting component (12 of Ott) that is connected to the bracket component (16 of Ott) via connectors (20 of Ott), for fastening to a mounting point (14 of Ott) , and wherein , in attaching the mounting component to the mounting point, a monitoring of the mounting component for proper fastening to the mounting point is activated (col. 11, lines 28-21 and 32-35 of Ott).

25) Claim 30 (depends on claim 28/29) wherein, in at least one of attaching the bracket component to the product and attaching the mounting component to the mounting point, the monitoring is activated, wherein in at least one of the bracket

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component and the mounting component, a measuring loop that comprises at least one sensor is closed (30, 40, 92 of Ott).

26) Claim 31 (depends on claim 28) claimed monitoring operations are met by the monitoring operation associated with sensor switches 30, 40 and loop 20 of Ott.

27) Claim 32 (depends on claim 28) claimed monitoring proper connection between central unit and security unit is met by the monitoring of connectors 20 of Ott.

28) Claim 33 (depends on claim 32) see consideration of claim 30, and see figures and col. 11, lines 28-21 and 32-35 of Ott.

29) Claim 34 (depends on claim 33) see consideration of claim 31, or operation of device of Ott.

30) Claim 35: As considered in claim 1 above.

31) Claim 36 (depends on claim 35) as considered in claim 3.

32) Claim 37 (depends on claim 35) as considered in claim 5. Also, **theft**

protection is only active when the alarm is triggered.

33) Claim 38: As considered in claim 8.

34) Claim 39 (depends on claim 38) as considered in claim 10.

35) Claim 40 (depends on claim 38) as considered in claim 12.

36) Claims 41-42 (depends on claim 38) as considered in claim 28.

37) Claims 43-44 (depends on claim 41) as considered in claim 29.

38) Claim 45 (depends on claim 41) as considered in claim 32.

40) Claims 46-48 (depends on claim 35) as considered in claims 21, 19, 23 respectively.

41) Claims 49-50 (depends on claim 48): It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement the alarm output in Ott, Howell and Brinkmeyer et al. using known types including visual LEDs and/or piezoelectric acoustic transducers well known in the art.

42) Claim 51 (depends on claim 38): It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement the housing of Ott, Howell and Brinkmeyer et al. using various known materials including at least partially translucent or transparent materials based on personal or design criteria of aesthetics without changing the functionality of the device.

43) Claim 52 (depends on claim 38) as considered in claims 30-31.

44) Claim 53 (depends on claim 52): series connection is met by Ott in that any sensor actuation at 32, 20 or 40 would activate the alarm.

45) Claim 54 (depends on claim 52) as considered in claim 31.

46) Claim 55 (depends on claim 52) wherein the sensors are designed as at least optical sensors 40 and according to Figs. 2-3; col. 11, lines 52-53 and col. 12, lines 1-6 of Ott.

47) Claim 56 (depends on claim 38) claimed adhesive layer is met by 24 of Fig 3 of Ott.

48) Claim 57 (depends on claim 56) double-sided adhesive strip is met by 24 according to col. 10, lines 16-17 of Ott.

49) Claim 58 (depends on claim 56) the adhesive layer adheres more strongly to at least one of the product and the mounting point than to at least one of the bracket component and the mounting component (col. 12, lines 10-15 of Ott).

50) Claim 59 (depends on claim 56) Since the device of Ott allows for removal eventually by authorized user, such as to reuse it on another product or attach to another mounting component, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to include a grip tab on the adhesive layer to facilitate gripping and removal.

51) Claim 60 (depends on claim 52) wherein the sensors are integrated at least partially into the adhesive layer (Figs. 2-3 and col. 12, lines 1-15 of Ott showing sensors 28/30/40 embedded/integrated at least partially into the adhesive layer 24).

52) Claim 61 (depends on claim 43) In the combined system of Ott, Howell and Brinkmeyer et al., it would have been obvious to one of ordinary skill in the art at the time of the claimed invention that the receiver would be housed/mounted where there is support space for it and able to be connected to the circuitry, which would be in at least one of the mounting component and the central unit as shown in Figs. 2-3 of Ott.

53) Claim 62 (depends on claim 43) a battery compartment (44 in Fig. 2 of Ott; 56 in Fig. 3 of Howell) is provided in at least one of the mounting component and the central unit.

54) Claims 63-64 (depends on claim 41) wherein the bracket component (16 of Ott) is provided with a first mounting point having a greater material thickness than a second mounting area that is more flexible than the first mounting point (upper first,

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thicker portion, and lower thinner and thus more flexible portion, of 16 shown in Fig. 3 of Ott).

55) Claim 66 (depends on claim 43) wherein the connectors are designed as cable (20 in Fig. 3 of Ott).

56) Claim 67 (depends on claim 43) wherein the mounting component (12 of Ott) is at least one of suspendable and latchable (see attachment lines 70 and 72 of Fig. 3 and corresponding disclosure of Ott) in the bracket component (16 of Ott).

57) Claim 68 (depends on claim 43) while Ott teaches using relatively opposing V-shaped structural assemblies relying on friction-fitting and gravity/weight to keep the mounting component and the bracket component relatively attached (see disclosure of Figs. 2-3 and col. 13, lines 17-46 of Ott), it would have been obvious to one of ordinary skill in the art at the time of the claimed invention that other well known attachments including use of a magnet can be used in place or in addition in providing the coupling/attachment.

3. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ott in view of Howell, Brinkmeyer et al. and Leyden et al. (US 5,552,771).

1) Regarding claim 65, Ott, Howell and Brinkmeyer et al. render obvious the claimed subject matter as in claim 43, except: the claimed wherein the mounting component is equipped with a retractor device.

Ott teaches use of tethered/corded components in the product theft alarm, while Leyden et al. teaches the known use of retractor device to eliminate the problem of entangled and unsightly excess lengths of sensor cords (Abstract and figures).

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It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to include a retractor device of Leyden et al. in the mounting component of Ott, Howell and Brinkmeyer et al. to eliminate the problem of entangled and unsightly excess lengths of sensor cords.

Response to Arguments

10. Applicant's arguments filed 08/19/2008 have been fully considered but they are not persuasive. With regard to externally housing the receiver, such has been addressed above. In regards to deactivating a receiver, Howell clearly shows in the cited passages that an alarm is deactivated, and that such a clear or deactivation signal is received. Therefore a receiver is, in its broadest sense, is being deactivated. In addition, both Ott and Howell are drawn to analogous fields of endeavor and are therefore combinable. It should further be noted that Brinkmeyer is only relied upon to teach a general concept in the art, and that is that receivers are cycled on and off to conserve power, and therefore there is motivation to combine the inventions of Ott, Howell, and Brinkmeyer since all seek to disclose receiver operation at the very least.

Allowable Subject Matter

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11. Claims 6, 13, 17 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **GEORGE A. BUGG** whose telephone number is (571)272-2998. The examiner can normally be reached on Monday-Thursday 9:00-6:30, and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ben Lee can be reached on (571) 272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George A Bugg
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December 2, 2008